

The  World.
NEW YORK, THURSDAY, OCTOBER 13, 1892.

TAMMANY'S LEADERS---ART SUPPLEMENT---SUNDAY WORLD

LAST EDITION.
THE ACT STANDS.

New Apportionment Sustained by the Court of Appeals

Justices Andrews and Finch Dis- sent from the Opinion

Local Opinions on the Importance and Wisdom of the Decision

ALBANY, Oct. 13.—The Legislative Apportionment law has been declared constitutional.

Judge Andrews writes a dissenting opinion, holding the Apportionment law to be unconstitutional for the following reasons:

Judge Peckham takes up first the contention that the law was passed in violation of that provision of the Constitution which directs the alteration to be made by the Legislature at the "first session after the return of every enumeration." He says:

The act was in truth passed at an extraordinary session of the Legislature called by the Governor, and after the return of the enumeration at 1890. " * * The Governor by the terms of the Constitution has " power to convene the Legislature " or the Senate only " on extraordinary occasions. " When thus convened, is not the legislature in session? And, can it be for a moment seriously controverted that a session then convened is the regular session? And, can it be for a moment seriously

session which had already terminated by an adjournment without day? It is not a regular session, it is free. It is what the constitution describes it—an extraordinary session, but yet a session of the legislature. The constitution does not say that the session which is to deal with the question must be a regular one.

men were the only ones who were not in the
stitution. It is impossible to claim that the
to color of validity. The question of the
duty of providing for an entertainment by the
Legislature of 1885 and thereafter, up to
1892, did not, it is held, prevent the per-
formance of the duty by the succeeding
Legislature. In fact, the duty was com-

The objection founded on the inclusion of "negroes not taxed" in the count is quickly disposed of by reference to the amendments to the United States Constitution, disposing of the color line in citizenship.

tions, and it is the question of the discretion used by the Legislature in apportioning the remaining members of Assembly among counties having fractional ratios that the dissenting opinions come.

The expression "as nearly as may be," when used in the Constitution with reference to this subject, does not mean as nearly as a mathematical process can be followed. It is in

The Court of Appeals decision on the Apportionment bill was a fruitful topic of conversation at both Democratic and Republican

Prof. Collins, of Cornell University, Gov. Flower's legal adviser, said:

"Just as I expected. The Legislature, not the Judiciary, should make the appointment. The bill, while an eminently fair one, is not the bill first submitted by the power

"We had a very small majority in the Legislature and there were a few hot-heads who wanted to force things through, and they finally carried their point by passing the present bill."

"Had they passed the original bill there would have been no question about it."

(Chairman Hackett said that they had practically anticipated the decision by electing delegates to various city and county conventions.

They would, of course, continue to organize under the new apportionment.

Secretary R. B. Smalley, of the Democratic National Campaign Committee, said:

"I do not see how any one could have seriously expected a different decision. To annul the apportionment made at the last session

back to an apportionment infinitely worse in its inequalities than any alleged against the new one. The old apportionment, always charged to be unjust, operated to disfranchise many thousands in great communities. There was a plain and admitted evil to be corrected. To prevent this could only be justified by absolute necessity from a clear violation of the Constitution, which is, of course, the duty of the supreme tribunal under all circumstances.

After that meeting, Mr. Brookfield, speaking of the proposed contest, is reported to

Asked to-day what the County Committee would do about it, Mr. Brookfield said:

"I don't care what they do," Chairman Jacob M. Patterson, of the County Campaign Committee, said that the delegates of the various conventions had been selected under the old and new apportionments, so there was no difficulty on that point. The matter of district leaders would be considered later.

"The decision is no surprise to me," said

publican campaign manager, "he reported it."